

HUD has already issued its firm approval letter.

§ 266.25 Limitation on HUD insurance liability.

The Commissioner shall have no obligation to recognize or deal with anyone other than the HFA in its role as mortgagee of record and as party to a risk-sharing agreement with HUD with respect to the rights, benefits, and obligations of the HFA under the contract of insurance.

§ 266.30 Nonapplicability of 24 CFR part 246.

The provisions of 24 CFR part 246 do not apply to projects that are security for mortgages insured under this part.

Subpart B—Housing Finance Agency Requirements

§ 266.100 Qualified housing finance agency (HFA).

(a) *Qualifications.* To participate in the program, an HFA must apply and be specifically approved for the pilot program described in this part, in addition to being approved as a mortgagee under § 202.10. The HFA must maintain eligibility by continuing to comply with the requirements set forth in the Risk-Sharing Agreement and this part. To qualify for participation in the program described in this part, an HFA must:

- (1) Carry the designation of “top tier” or its equivalent as evaluated by Standard and Poor’s or any other nationally recognized rating Agency; or
- (2) Receive an overall rating of “A” for the HFA for its general obligation bonds from a nationally recognized rating agency; or
- (3) Otherwise demonstrate its capacity as a sound and experienced HFA based on, but not limited to, experience in financing multifamily housing, fund balances, administrative capabilities, investment policy, internal controls, financial management, portfolio quality, and State or local support; and
- (4) Be a HUD-approved multifamily mortgagee in good standing; and
- (5) Have at least five years experience in multifamily underwriting; and
- (6) Certify that:

(i) The Department of Justice has not brought a civil rights suit against the Agency, and no suit is pending;

(ii) There has not been an adjudication of a civil rights violation in a civil action brought against the HFA by a private individual, unless the HFA is operating in compliance with a court order, or implementing a HUD-approved compliance agreement designed to correct the areas of noncompliance;

(iii) There are no outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations as a result of formal administrative proceedings, or the Secretary has not issued a charge against the HFA under the Fair Housing Act, unless the HFA is operating under a compliance agreement designed to correct the areas of noncompliance.

(b) *Approval levels.* Approval levels consist of the following:

(1) Level I approval to originate, service, and dispose of multifamily mortgages where the HFA uses its own underwriting standards and loan terms and conditions, and assumes 50 to 90 percent of the risk of loss (increments of 10 percent).

(2) Level II approval to originate, service, and dispose of multifamily mortgages where the HFA uses underwriting standards and loan terms and conditions approved by HUD, and:

(i) When the loan-to-replacement cost ratio for new construction and substantial rehabilitation projects or the loan-to-value ratio for existing projects is greater than or equal to 75 percent, the HFA shall assume 25 percent of the risk of loss.

(ii) When the loan-to-replacement cost ratio for new construction and substantial rehabilitation or the loan-to-value ratio for existing projects is less than 75 percent, the HFA shall assume 10 percent, or 25 percent at the HFA’s option, of the risk of loss.

(3) For HFAs who plan to use Level I and Level II processing, the underwriting standards and loan terms and conditions to be used on Level II loans must be approved by HUD.

[59 FR 62524, Dec. 5, 1994, as amended at 62 FR 20088, Apr. 24, 1997]